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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,341	05/09/2005	Martin Popp	2005-133	4837
27569	7590	07/29/2010		
PAUL AND PAUL 2000 MARKET STREET SUITE 2900 PHILADELPHIA, PA 19103			EXAMINER RADKOWSKI, PETER	
			ART UNIT 2883	PAPER NUMBER
			NOTIFICATION DATE 07/29/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Supplemental
Notice of Allowability**

Application No.

10/534,341

Examiner

PETER RADKOWSKI

Applicant(s)

POPP ET AL.

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/17/2010.
2. ☒ The allowed claim(s) is/are 1-39.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Peter Radkowski/
Patent Examiner, Art Unit 2883

Detailed Office Action

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Claim 13 of the application has been amended as follows:

13. (Examiner's Amendment) A support portion according to claim 11 or claim 12 ~~when~~
~~appendant to claim 3 or a claim appendant thereto~~ characterised in that the spacer
element (6) has a through passage on the side towards the supporting surface (2,
2'), in which the wave-modifying element (5, 5') is arranged.

Comments

1. Claims 1-39 are allowed. The restriction requirement to elect a single invention to which the claims must be restricted, as set forth in the Office action mailed on December 1, 2008, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claim 12-16 directed to drawn to a carrier for the optical components and a spacer element for mounting further components on the carrier no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Response to Applicant's Arguments

2. As applicant argues, prior art reference Tichenor (4,187,534; "Tichenor") fails to teach a "support element portion" having openings connected by bores. Remarks, May 17, 2010; p. 8, ll. 1-6; and Interview, May 13, 2010. This argument is persuasive in light of applicant's amendments to independent claim 1 wherein applicant adds the limitation of "at least two openings" of "one supporting surface" connected by "at least one bore" to "at least one opening" a second "surface;" and to independent claim 22 wherein applicant adds the limitation of "the through passages connect each of the openings and the first and second surfaces together." These limitations facilitate the mounting of wave-modifying elements.

Tichenor remains the closest prior art of record in this application. However, in light of the applicant's amendment, claims 1-39 are allowable as distinguished over the prior art of record because of the reason stated above. It is this examiner's position that prior art, taken

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alone, fails to disclose or, taken in combination, fails to render obvious the limitations of the claims discussed above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Reasons for Allowance."

Allowable Subject Matter

3. Claims 1-21 and 33-37 are allowed.

Independent claim 1 is allowed because the prior art, taken alone, fails to disclose or, taken in combination, fails to render obvious a support element having: supporting surfaces (2,2',2''); wherein the at least two openings of the one supporting surface and the at least one opening of the other supporting surface are connected together by way of at least one through bore; in combination with the other recited limitations in the claim.

Claims 2-21 and 33-37 are allowable as dependent upon claim 1.

4. Claims 22-32 and 38-39 are allowed.

Independent claim 22 is allowed because the prior art, taken alone, fails to disclose or, taken in combination, fails to render obvious a method of producing a support portion for mounting at least two wave-modifying elements, comprising the steps: selecting a material block having a first and a second surface; providing one or more through passages, so that the through passages connect each of the openings and the first and second surfaces together; in combination with the other recited limitations in the claim.

Claims 23-32 and 38-39 are allowable as dependent upon claim 22.

Conclusion

5. The prior art made of record in Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Radkowski whose telephone number is (571) 270-1613. The examiner can normally be reached on Monday - Thursday, 8 AM to 5 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Robinson, can be reached on (517) 272-2319. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, See <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

/Peter P. Radkowski/
Patent Examiner, Art Unit 2883

/CHARLIE PENG/
Primary Examiner, Art Unit 2883
